

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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PLANS, Inc.,

Plaintiff,

v.

SACRAMENTO CITY UNIFIED  
SCHOOL DISTRICT, et al.,

Defendants.

NO. CIV. S-98-266 FCD/EFB

MEMORANDUM AND ORDER

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The Phase I trial of this case commenced on August 31, 2010. That same day, following the close of plaintiff PLANS, Inc.'s ("plaintiff") case-in-chief, addressing the sole issue of whether anthroposophy is a religion, defendant Sacramento City Unified School District ("defendant" or "SCUSD") moved for a judgment on partial findings pursuant to Federal Rules of Civil Procedure, Rule 52(c) ("Rule 52(c)"). The court heard oral argument on the motion and stated on the record, its tentative decision to grant the motion; however, it permitted the parties leave to file written briefing and set the matter for a further hearing on September 22, 2010, should one be necessary. The court has

1 reviewed the parties' briefing, and for the reasons stated on the  
2 record on August 31 as well as those set forth more fully below,  
3 the court GRANTS defendant's Rule 52(c) motion.<sup>1</sup>

4 **BACKGROUND**

5 Plaintiff originally filed this action in 1998 against SCUSD  
6 and Twin Ridges Elementary School District ("Twin Ridges"),  
7 alleging their operation of Waldorf public schools violates the  
8 First Amendment of the United States Constitution, as well as the  
9 California State Constitution. Plaintiff alleges that the  
10 primary purpose and effect of Waldorf education is to advance  
11 religion, specifically the alleged religious doctrines of  
12 anthroposophy. Plaintiff seeks a declaratory judgment that the  
13 school districts' operation of taxpayer-funded Waldorf schools is  
14 illegal and seeks to enjoin the school districts from operating  
15 the schools.

16 Previously in September 2005, this court commenced a  
17 bifurcated trial in this case on the threshold issue of whether  
18 anthroposophy is a religion for purposes of the Establishment  
19 Clause. However, before permitting plaintiff to call its first  
20 witness, the court required plaintiff to make a proffer as to  
21 what evidence it had to make this showing. Finding the proffer  
22 wholly insufficient,<sup>2</sup> the court entered judgment in favor of

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23  
24 <sup>1</sup> Because the court finds that further oral argument will  
25 not be of material assistance, it orders this matter submitted on  
the briefs. E.D. Cal. L.R. 230(g).

26 <sup>2</sup> Plaintiff conceded it had no witnesses in light of the  
27 court's previous exclusion, at the final pretrial conference, of  
28 plaintiff's proposed witnesses, Betty Staley ("Staley") and  
Crystal Olsen. The court excluded these witnesses from  
testifying based on plaintiff's failure to timely disclose them  
as expert witnesses. Plaintiff indicated it had only one piece

1 defendants pursuant to Rule 52(c).

2 On November 21, 2007, the Ninth Circuit reversed this  
3 court's September 28, 2005 judgment in favor of defendants. In a  
4 brief, unpublished opinion, the Ninth Circuit held that this  
5 court erred in excluding the testimony of the "witnesses in  
6 question."<sup>3</sup> The court held that "because [plaintiff] intended to  
7 call the witnesses as percipient witnesses, it did not need to  
8 comply with the court's deadline for expert witness disclosures."  
9 The court also emphasized that plaintiff disclosed these  
10 witnesses as early as January 2001, and there was no prejudice  
11 since defendants had designated these witnesses as expert  
12 witnesses. (Docket #281.)

13 Following the Ninth Circuit's remand order, the court  
14 granted in March 2008, Twin Ridges' motion to dismiss, leaving  
15 SCUSD as the sole remaining defendant. (Docket #295, dismissing  
16 Twin Ridges since as of June 30, 2007, it ceased chartering any  
17 Waldorf methods public schools.) Plaintiff subsequently filed in  
18 May 2009, a substitution of counsel, replacing Scott Kendall who  
19 had litigated the case at the time of the 2005 trial, with Donald  
20 Michael Bush.

21  
22  
23 of evidence in support of its case (plaintiff's Exhibit 89, a  
24 book entitled The Waldorf Teacher's Survival Guide, written by  
25 Eugene Schwartz), but acknowledged that it had no witness to  
26 authenticate or otherwise testify to the contents of the book  
(plaintiff had previously, voluntarily withdrew Schwartz as a  
witness in the case). The court found the Exhibit excludable for  
a failure to authenticate or lay a proper foundation and/or as  
hearsay. (Docket #248.)

27 <sup>3</sup> The Ninth Circuit opinion did not name the witnesses at  
28 issue, but the parties agree Staley was one of the subject  
witnesses.

1       Thereafter, following a status conference in December 2009,  
2 the court held a further final pretrial conference in June 2010,  
3 setting the matter again for trial of Phase I of the case.<sup>4</sup>  
4 (Docket #318.) As set forth in the court's Final Pretrial  
5 Conference Order, Phase I would address the sole issue of whether  
6 anthroposophy is a religion for Establishment Clause purposes.

7       On that issue, plaintiff bears the evidentiary burden of  
8 proof. Alvarado v. City of San Jose, 94 F.3d 1223, 1226-31 (9th  
9 Cir. 1996). As set forth in the Final Pretrial Conference Order,  
10 relevant to the court's determination of whether plaintiff has  
11 met its burden, are the following Alvarado factors:

- 12       (1) Whether anthroposophy is a system of belief and worship  
13           of a superhuman controlling power involving a code of  
14           ethics and philosophy requiring obedience thereto;
- 15       (2) Whether anthroposophy addresses fundamental and  
16           ultimate questions having to do with "deep and  
17           imponderable matters."
- 18       (3) Whether anthroposophy is "comprehensive in nature."
- 19       (4) Whether anthroposophy can be recognized by formal and  
20           external signs such as formal services, ceremonial  
21           functions, the existence of clergy, structure and  
22           organization, efforts at propagation, observance of  
23           holidays and other similar manifestations associated  
24           with the traditional religions.

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26       <sup>4</sup> The court, with agreement of the parties, again  
27 bifurcated the issues for trial. Because the issue of whether  
28 anthroposophy is a religion is a threshold issue upon which the  
relevance of all other issues in the case depends, bifurcation  
served the interests of judicial economy and efficiency.

1 (Docket #318 at 2.) The court's Order described that plaintiff  
2 intended to call one witness, Staley, in support of its case, and  
3 plaintiff specifically acknowledged that pursuant to the prior  
4 orders of this court, as well as the Ninth Circuit's decision,  
5 Staley could provide only percipient testimony. (Id. at 10.)

6 Trial commenced on August 31, 2010. Plaintiff called only  
7 Staley as a witness in support of its case-in-chief.<sup>5</sup> Staley was  
8 one of the founders of the Rudolf Steiner College, in Fair Oaks,  
9 California, and is presently the Director of the Waldorf Teacher  
10 Education Program at the College; she has also been a member of  
11 the Anthroposophical Society in America ("ASA")<sup>6</sup> since 1963.  
12 (Reporter's Transcript ["R.T."], filed Sept. 7, 2010 [Docket  
13 #344], at 5:25-6:25, 8:10-19.) In addition to Staley's  
14 testimony, plaintiff attempted to introduce various exhibits,  
15 including a number of books, into evidence. However, despite  
16 initially proffering nearly 150 exhibits,<sup>7</sup> only one of

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18 <sup>5</sup> At times in plaintiff's opposition, it describes Staley  
19 as a "hostile witness." However, no such finding was made at  
20 trial. Fed. R. Evid. 611(c). Indeed, plaintiff did not request  
21 such a ruling by the court. (Docket #344.)

22 <sup>6</sup> Plaintiff failed to elicit testimony from Staley fully  
23 describing the ASA. While, as set forth below, the court does  
24 not consider the ASA's amicus brief as to the substantive issue  
25 at stake, it notes in order to provide proper context to its  
26 order, that the ASA describes itself as the "legal representative  
27 of anthroposophy in this country and is charged with a  
28 responsibility for the reputation of anthroposophy and its public  
face." The Society was originally incorporated in 1933 in New  
York. (Docket #334.)

<sup>7</sup> In advance of trial, plaintiff withdrew many of these  
exhibits. Additionally, the court granted defendant's motion in  
limine #14 directed at the vast majority of these exhibits.  
Without an expert witness, most of plaintiff's exhibits were not  
admissible. Staley, as a percipient witness, was not qualified  
to lay a foundation for the exhibits or to authenticate them, and  
the exhibits, which plaintiff sought to offer for the truth of

1 plaintiff's exhibits was admitted at trial: Plaintiff's Exhibit  
2 153 (the Statutes of the ASA). Also admitted by stipulation of  
3 the parties were defendant's Exhibits B (the Articles of  
4 Incorporation of the ASA), C (the Bylaws of the ASA, dated  
5 September 23, 1995) and D (the Amended Bylaws of the ASA), which  
6 plaintiff referred to during its direct examination of Staley.

7 Following the conclusion of Staley's testimony, plaintiff  
8 rested, and defendant moved pursuant to Rule 52(c) for a judgment  
9 in its favor on partial findings.<sup>8</sup> The court issued its  
10 tentative decision on the record, indicating its inclination to  
11 grant the motion.

12 As the court observed at various points during the course of  
13 trial, plaintiff failed to offer evidence addressing the critical  
14 issues under Alvarado. (R.T. at 53-56.) Plaintiff did not offer  
15 evidence specifically defining anthroposophy, its tenets, or the  
16 nature of activities anthroposophists engage in that demonstrate  
17 adherence to religious tenets. Instead, plaintiff attempted to  
18 elicit testimony from Staley opining about the writings and  
19 teachings of Rudolf Steiner ("Steiner").<sup>9</sup> Such opinion testimony

20 \_\_\_\_\_  
21 the matters asserted in them, were hearsay, for which no  
exception applied. (Docket #342.)

22 <sup>8</sup> ASA filed an amicus brief in support of defendant.  
23 (Docket #334.) In its discretion, the court declines to consider  
24 the brief; instead, it resolves this case solely upon its  
assessment of the evidence proffered by plaintiff in its case-in-  
25 chief. See Rocky Mountain Farmers Union v. Goldstene, No. CV-F-  
09-2234 LJO/DLB, 2010 WL 1949146, \*2 (E.D. Cal. May 11, 2010)  
(recognizing that the privilege of being a heard amicus rests  
26 solely within the discretion of the court).

27 <sup>9</sup> Of significance, plaintiff wholly failed to offer  
evidence establishing Steiner's identity. The court, however,  
28 has gleaned from some of Staley's testimony and argument from  
plaintiff's counsel that Steiner is viewed as the central figure

1 was ruled inadmissible, as Staley was never qualified as an  
2 expert.

3       Nonetheless, Staley did testify to being an  
4 "anthroposophist" and a member of the ASA, and in that capacity  
5 *could* have but did not provide certain percipient testimony  
6 relevant to the issues of the trial. For example, plaintiff did  
7 not explore with Staley the parameters of her ASA membership,  
8 including (1) how she became a member, (2) what she did or  
9 observed as a member of the organization (e.g., did she attend  
10 meetings, classes, or retreats or perform or observe any  
11 ceremonial functions?), and (3) what were the requirements to  
12 maintain membership in ASA? Plaintiff, despite the court's  
13 suggestion, did not elicit such testimony from Staley. (R.T. at  
14 53-56.) Plaintiff *could* have but did not inquire about Staley's  
15 own anthroposophical beliefs, including (1) how she learned about  
16 anthroposophy and from what sources, (2) when she first  
17 considered herself an anthroposophist, (3) how she applies  
18 anthroposophy in her daily life, (4) whether she believes  
19 anthroposophy espouses any dogma or belief system, and (5) how  
20 anthroposophy informs the conduct of her own life. However,  
21 plaintiff did not elicit such testimony. Finally, plaintiff  
22 *could* have but did not question Staley about the nature of her  
23 involvement in the "First Class of the School of Spiritual  
24 Science," including (1) the requirements, if any, for membership,  
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26 in the history of anthroposophy, and that he was apparently an  
27 European educator in the early 20<sup>th</sup> Century. Steiner was also  
28 apparently the founder of the School of Spiritual Science in  
Switzerland which is connected in an undefined way by the  
evidence to anthroposophy.

1 (2) the School's connection, if any, to the ASA, (3) meetings,  
2 classes or retreats, if any, conducted at the School, (4)  
3 ceremonies, if any, performed at the School, and (5) teachings,  
4 if any, given by the School, including what she referred to as  
5 the "19 Cycles" and their relationship to anthroposophy. Again,  
6 however, plaintiff chose to not elicit such testimony.

7 Because of this complete failure to present percipient  
8 testimony relevant to the essential issues in the case, the  
9 court's analysis could properly end here. The above questions,  
10 and lack of answers thereto, demonstrate plaintiff's failure to  
11 satisfy its evidentiary burden at Phase I of the trial on the  
12 threshold issue of whether anthroposophy is a religion, requiring  
13 therefore, that judgment be entered in favor of defendant.

14 However, because of the lengthy history of this case and the  
15 important constitutional issue raised by plaintiff's claims, the  
16 court nonetheless examines below the evidence presented in the  
17 case under the Ninth Circuit's rubric established in Alvarado.

#### 18 STANDARD

19 Federal Rule of Civil Procedure 52(c) governs judgment on  
20 partial findings by the court in a non-jury trial. Fed. R. Civ.  
21 P. 52(c); Ritchie v. United States, 451 F.3d 1019, 1023 (9th Cir.  
22 2006)(concluding that a Rule 52(c) motion can only be made during  
23 a bench trial). After a party has been fully heard on an issue,  
24 "the court may enter judgment against the party on a claim or  
25 defense that, under the controlling law, can be maintained or  
26 defeated only with a favorable finding on that issue." Fed. R.  
27 Civ. P. 52(c). A judgment on partial findings can be entered "at  
28 any time that the court can appropriately make a dispositive



1 finding of fact on the evidence." Fed. R. Civ. P. 52(c)  
2 (advisory committee notes on 1991 amendment). However, the court  
3 may also decline to render any judgment until the close of the  
4 evidence. Fed. R. Civ. P. 52(c).

5 A Rule 52(c) judgment must be supported by findings of fact  
6 and conclusions of law. Fed. R. Civ. P. 52(c). The Rule 52(c)  
7 standard is different than the standards governing Rule 50 and  
8 Rule 56. Mother v. Hawaii, 283 Fed. Appx. 514, 515 (9th Cir.  
9 2008); Ritchie, 451 F.3d at 1022. The district court is not  
10 required to view evidence in the light most favorable to the non-  
11 moving party or draw any special inferences; rather, the court  
12 may make findings in accordance with its own view of the  
13 evidence. Ritchie, 451 F.3d at 1023 (concluding that "[r]ule  
14 52(c) expressly authorizes the district judge to resolve disputed  
15 issues of fact.")(citing Fed. R. Civ. P. 52(a)).

#### 16 ANALYSIS

17 Plaintiff's case hinges on a claim of violations of the  
18 Establishment Clause of the First Amendment. Government action  
19 challenged as violating the Establishment Clause must satisfy the  
20 test set forth in Lemon v. Kurtzman, 403 U.S. 602 (1971): To pass  
21 muster under Lemon, the challenged practice must (1) reflect a  
22 clearly secular legislative purpose; (2) have a primary effect  
23 that neither advances nor inhibits religion; and (3) avoid  
24 excessive government entanglement with religion. Preliminarily,  
25 to prevail on its Establishment Clause claim, plaintiff must  
26 prove two key facts: (1) anthroposophy constitutes a "religion"  
27 for Establishment Clause purposes; and (2) if anthroposophy is a  
28 religion, that there is an anthroposophical curriculum at the

1 subject public Waldorf-method schools. See Alvarado, 94 F.3d at  
2 1227 (recognizing that the court had to "first consider whether  
3 the object in question can be defined as 'religious' for  
4 establishment [clause] purposes"). As set forth above, the  
5 parties agreed that Phase I of the trial of this case would  
6 address only the first of these threshold issues.<sup>10</sup>

7 The Ninth Circuit has recognized that "[a]ttempting to  
8 define religion, in general and for the purposes of the  
9 Establishment Clause, is a notoriously difficult, if not  
10 impossible, task." Alvarado, 94 F.3d at 1223 (citing Africa v.  
11 Pennsylvania, 662 F.2d 1025, 1031 (3d Cir. 1981)("Few tasks that  
12 confront a court require more circumspection than that of  
13 determining whether a particular set of ideas constitutes a  
14 religion within the meaning of the first amendment.")). In  
15 Alvarado, the Ninth Circuit considered whether the New Age  
16 movement was a religion in order to determine if a challenged  
17 statue was "religious" for Establishment Clause purposes. 94  
18 F.3d at 1227. Before ultimately answering in the negative, the  
19 court considered whether the "New Age" Movement: (1) had current  
20 religious adherents or significance; (2) addressed fundamental  
21 and ultimate questions having to do with deep and imponderable  
22 matters; (3) was comprehensive in nature, consisting of a belief-  
23 system and not an isolated teaching; and (4) had certain formal  
24 and external signs. Alvarado, 94 F.3d at 1227-30 (finding that a  
25 symbol must have current significance to be considered religious,  
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27 <sup>10</sup> Clearly, if anthroposophy is not a religion, there  
28 would be no need to consider whether anthroposophy is being  
taught in the subject public schools such that the schools are  
either advancing or inhibiting anthroposophical views.

1 and analyzing the New Age movement using the three "helpful  
2 indicia" proposed by Judge Adams' concurring opinion in Malnak v.  
3 Yogi, 592 F.2d 197, 198 (3d Cir. 1979) ("Malnak II"). The court  
4 also cited, as relevant to the determination, its prior decision  
5 in Peloza v. Capistrano United Sch. Dist., 37 F.3d 517, 521 n. 5  
6 (9th Cir. 1994) wherein the court considered the definition of  
7 religion as set forth in Webster's Dictionary in rejecting the  
8 plaintiff's claim that evolutionism or secular humanism is a  
9 religion; Webster's Dictionary defined religion as the "belief in  
10 and reverence for a supernatural power accepted as the creator  
11 and governor of the universe." Webster's II New Riverside  
12 University Dictionary 993 (1988).

13 The factors outlined in Alvarado are informative but not a  
14 definitive test to determine what constitutes a religion under  
15 the Establishment Clause. See Alvarado, 94 F.3d at 1228-29  
16 (citing Malnak II, 592 F.2d at 210 (Adams, J. concurring)  
17 (cautioning that the Malnak II indicia should not be regarded as  
18 a *final test* for determining if something is a religion); see  
19 also Africa, 662 F.2d at 1031 (explicitly adopting Judge Adams'  
20 approach in Malnak II, referring to the indicia as a *guideline*).

21 Additionally, the Ninth Circuit emphasized in Alvarado that  
22 religion for Establishment Clause purposes should be construed  
23 more narrowly than for First Amendment Free Exercise Clause  
24 purposes. 94 F.3d at 1230; see also Peloza, 37 F.3d at 521 n. 5  
25 (recognizing that "[w]hile 'religion' should be broadly  
26 interpreted for Free Exercise Clause purposes, anything 'arguably  
27 non-religious' should not be considered religious in applying the  
28 establishment clause").

1 In rendering its decision in this case, this court  
2 recognizes that the factors considered in Alvarado, 94 F.3d at  
3 1227-30, are not exhaustive; however, they provide the court some  
4 guidance in determining whether anthroposophy is a religion for  
5 Establishment Clause purposes. Therefore, the court will  
6 consider the evidence presented at trial using the aforementioned  
7 factors as specifically outlined in the court's Final Pretrial  
8 Conference Order.<sup>11</sup>

9 Preliminarily, however, the court makes several general  
10 remarks about the evidence. Plaintiff's apparent theory of the  
11 case was that anthroposophy, in its current manifestations, is  
12 synonymous with the beliefs of Steiner. In that regard, in large  
13 part, plaintiff attempted to elicit testimony from Staley  
14 regarding Steiner's beliefs. The court precluded such testimony  
15 as rank hearsay--Staley was not qualified as an expert and thus,  
16 could not opine as to the nature and meaning of Steiner's  
17 beliefs. For similar reasons, the court also precluded the  
18 admission of the majority of plaintiff's proffered exhibits which  
19 were various writings of Steiner; these writings again were  
20 hearsay, and plaintiff had no witness to authenticate nor lay a  
21 foundation or testify to the contents of the writings. In fact,  
22 in virtually every instance, Staley had never read the books  
23 plaintiff sought to introduce. Moreover, even if Staley could  
24 have given such testimony regarding Steiner's beliefs, plaintiff  
25 did not lay any foundation for the proposition that Steiner's  
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27 <sup>11</sup> Considering the limited nature of the evidence  
28 presented by plaintiff, there appears no basis to go beyond these  
factors in deciding the issue.

1 personal beliefs, apparently expressed long ago, were  
2 representative of anthroposophy today.<sup>12</sup>

3 Indeed, from the limited evidence presented at trial very  
4 little can be gleaned about anthroposophy as an ideology. The  
5 testimony of Staley demonstrated that anthroposophy is somehow  
6 related to an organization in this country, the ASA, which has  
7 certain membership requirements, holds meetings, and has an  
8 identified purpose to support Steiner's work and thought.  
9 Significantly, the ASA admits anyone, without regard to religious  
10 affiliation, and the Society expressly rejects any sectarian  
11 activity and provides that no dogmatic stand whatsoever may be  
12 taken by the organization.

13 Staley testified consistently with the ASA's internal  
14 documents which were admitted into evidence. She testified that  
15 in her view, anthroposophy was not a religion (R.T. at 44:2) but  
16 rather a method of learning which encourages personal inquiry and  
17 research (R.T. at 13:24-14:4, 24:3-6, 38:3-8, 49:15-23). She  
18 testified that as an anthroposophist, she is not required to  
19 adhere to any tenets, and that anthroposophy has no specific  
20 dogma or belief system. Rather, anthroposophical writings are  
21 meditative tools and are meant to encourage personal thought and  
22 self-reflection. (R.T. at 18:24-25, 21:20-23.) Staley also  
23 testified that there are no formal or external signs of  
24 anthroposophy which are akin to religious symbols or  
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26 <sup>12</sup> Staley's testimony and Steiner's various writings were  
27 also properly excluded on the basis of relevance. Plaintiff  
28 failed to establish the relevance of Steiner's personal beliefs  
to the inquiries under Alvarado, and also did not establish that  
Staley followed Steiner's views in any respect whatsoever.

1 manifestations. (R.T. at 40:5-10, 42:17-21, 44:2-16.) She  
2 further testified that there are no special observances, holidays  
3 or ceremonial functions associated with anthroposophy. (R.T. at  
4 42:17-21.)

5 Considering the evidence as whole, plaintiff simply failed  
6 to offer any evidence to support a finding that anthroposophy is  
7 a religion. At best, the evidence suggests that anthroposophy is  
8 a method of learning which is available to anyone regardless of  
9 their religious or philosophical persuasion. Stated another way,  
10 anthroposophy is more akin to a methodology or approach to  
11 learning as opposed to a religious doctrine or organized set of  
12 beliefs. Having reached this conclusion, the court will  
13 nevertheless briefly discuss the application of the Alvarado  
14 factors.

15 **1. System of Belief and Worship**

16 Contrary to plaintiff's argument, neither Staley's testimony  
17 nor the four admitted exhibits establish that anthroposophy is a  
18 system of belief and worship of a "superhuman controlling power"  
19 involving a code of ethics and philosophy requiring obedience  
20 thereto. First, while plaintiff cites extensively to the four  
21 admitted exhibits, particularly ASA's Articles of Incorporation  
22 which defines anthroposophy as "human wisdom based on the study  
23 of knowledge of man's physical, soul and spiritual nature," none  
24 of these exhibits establish that anthroposophy involves a belief  
25 system as such, much less worship of a "controlling superhuman  
26 power" or adherence to particular theological or philosophical  
27 tenets. Instead, for example, the Principles referenced in the  
28

1 Bylaws of ASA state: "anyone can become a member [of ASA],<sup>13</sup>  
2 without regard to nationality, social standing, *religion*, or  
3 scientific or artistic conviction . . . The [ASA] rejects any  
4 kind of sectarian activity." (Ex. 153 at 000002.) (emphasis  
5 added.) The Principles also provide that a "dogmatic stand in  
6 any field whatsoever is to be excluded from the [ASA]." (Id.)  
7 Thus, contrary to plaintiff's protestations, the internal  
8 documents of ASA do not support a finding that anthroposophy is a  
9 system of belief involving a "superhuman controlling power" or  
10 code of ethics. Membership in the ASA is open to any person,  
11 without regard to their religious affiliation, and the Society  
12 expressly rejects any kind of sectarian activity and provides  
13 that *no dogmatic stand may be taken*.

14 Moreover, plaintiff's citation to various aspects of  
15 Staley's testimony discussing spirituality is also unavailing.  
16 Plaintiff relies heavily on Staley's testimony defining  
17 anthroposophy as a "path from the human being to the realm of the  
18 spirit." Staley described the realm of the "spirit" as "the  
19 whole realm of the unseen . . . we have things we can weigh and  
20 measure and see and we have things we can't see and measure . . .  
21 all that is not physical." (RT at 27:2-5, 13-23.) Staley's  
22 reference to the "spiritual" or non-physical world does not  
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24 <sup>13</sup> In certain respects, the Bylaws of the ASA indicate  
25 that members must "subscrib[e]" or "support" the "Principles"  
26 "given by Rudolf Steiner at the founding of the . . . Society in  
27 1923." (Ex. C at 0042; Ex. D at 0049.) The court acknowledges  
28 that language *could* denote a requirement of adherence to a  
certain set of beliefs. However, no such evidence was introduced  
at trial to establish that proposition. Indeed, there is no  
evidence in the record that ASA members are required to believe  
anything.

1 establish that anthroposophy, itself, is a system of belief.

2 Plaintiff also cites certain portions of Staley's testimony  
3 discussing her understanding of "Christ's relevance" to the  
4 personal beliefs of Steiner, and her understanding of Steiner's  
5 views on reincarnation. (R.T. at 22:24-23:4, 23:15-23.) Staley's  
6 testimony on these issues is inapposite. Importantly, as stated  
7 above, plaintiff failed to establish the relevance of Steiner's  
8 views to this court's determination of whether anthroposophy is a  
9 religion; plaintiff did not introduce any evidence to establish  
10 that anthroposophy mandates adherence to Steiner's beliefs.  
11 Indeed, the evidence suggests that anthroposophy does not require  
12 adherence to any specific beliefs, of Steiner or anyone else.  
13 Moreover, even if Steiner's views were relevant, plaintiff failed  
14 to establish that Staley's personal views and understanding of  
15 Steiner's beliefs represented the views of anthroposophists,  
16 generally. Moreover, Staley could not give expert opinion  
17 testimony on the issue. Significantly, Staley never testified  
18 that Christ or Steiner's views were considered, by her or any  
19 other anthroposophist, as any controlling power to be worshiped  
20 or followed.

## 21 **2. Fundamental and Ultimate Questions**

22 For reasons similar to the above, plaintiff also failed to  
23 establish that anthroposophy addresses fundamental and ultimate  
24 questions having to do with deep and imponderable matters. In  
25 Africa, the Third Circuit elaborated on this factor, explaining  
26 as follows:

27 Traditional religions consider and attempt to come to  
28 terms with what could best be described as "ultimate"  
questions-questions having to do with, among other



1 things, life and death, right and wrong, and good  
2 and evil. Not every tenet of an established theology  
3 need focus upon such elemental matters, of course; still,  
4 it is difficult to conceive of a religion that does not  
5 address these larger concerns. For, above all else,  
6 religions are characterized by their adherence to and  
7 promotion of certain "underlying theories of man's  
8 nature or his place in the Universe."

9 662 F.2d at 1033. Here, while plaintiff introduced some evidence  
10 through Staley describing how anthroposophy seeks to understand  
11 non-physical reality, that testimony did not establish that  
12 anthroposophy provides answers to "ultimate questions" about life  
13 and death or right and wrong or good and evil, as described in  
14 Africa.

15 Instead, the evidence at trial suggested that anthroposophy  
16 encourages personal inquiry but does not provide answers to  
17 ultimate questions. Plaintiff broadly asserts that the Statutes  
18 of ASA "lay claim" to a "a true knowledge of the spiritual  
19 world;" however, plaintiff misquotes the document. The Statutes  
20 provide: the ASA "is to be an association of people whose will  
21 it is to nurture the life of the soul, both in the individual and  
22 in human society, on the basis of a true knowledge of the  
23 spiritual world." (Ex. 153 at ¶ 1.) The source of the "true  
24 knowledge" is not identified but arguably people will discern the  
25 true knowledge for themselves. Indeed, plaintiff fails to  
26 acknowledge that the Statutes further provide that  
27 "[a]nthroposophy . . . leads to results that can serve as a  
28 *stimulus* to spiritual life for every human being, *whatever his .*  
*. . religion.*" (*Id.* at ¶ 3.) Accordingly, from the evidence  
introduced at trial, it appears that any person can be an  
anthroposophist, regardless of his religious beliefs, and can

1 explore his own ultimate questions and seek his own answers.

2 **3. Comprehensiveness**

3 Plaintiff also failed to prove that anthroposophy  
4 constitutes a comprehensive belief-system. Plaintiff's citation  
5 to portions of Staley's testimony and the four admitted exhibits  
6 that discuss "spiritual" matters and the ASA's self-described  
7 purpose to carry out its goals according to Steiner's teachings  
8 do not establish that anthroposophy is a comprehensive belief-  
9 system. Indeed, as defendant emphasizes, Staley's testimony, in  
10 particular, suggests precisely the contrary because a  
11 comprehensive belief-system is not one where "anyone can disagree  
12 with anybody." (R.T. at 38: 3-8)); see Alvarado, 94 F.3d at 1229  
13 (citing Africa, 662 F.2d at 1031)("a religion is comprehensive in  
14 nature; it consists of a belief-system as opposed to an isolated  
15 teaching.").

16 Plaintiff quotes a number of sections from the ASA's  
17 Statutes, pertaining to spirituality and spiritual-scientific  
18 training; however, the reference to "spirituality" in the  
19 Statutes hardly demonstrates that anthroposophy is a  
20 comprehensive belief-system. While anthroposophy may involve a  
21 discussion of spirituality, *critically absent is any requirement*  
22 *of adherence* to any dogma regarding spirituality.

23 Plaintiff also focuses on the ASA's self-described purpose  
24 to carry out "its goals according to the teachings of Dr. Rudolf  
25 Steiner." (Exhibit B at 0031.) Plaintiff maintains, in its  
26 opposition without citation to evidence, that Steiner espoused  
27 "religious" beliefs. In fact, there is no evidence in the record  
28 that suggests Steiner espoused any religious dogma, nor that an

1 anthroposophist must surrender his religious beliefs to Steiner.  
2 Indeed, much of the evidence which purports to describe  
3 anthroposophy is more akin to the "New Age" movement discussed in  
4 Alvarado, 94 F.3d at 1230, which imposed "no moral or behavioral  
5 obligations; no comprehensive creed; no particular text, rituals  
6 or guidelines . . . no requirement or suggestion that anyone give  
7 up the religious beliefs he or she already holds."

8 **4. Formal and External Religious Signs**

9 Plaintiff likewise did not establish that anthroposophy has  
10 formal and external signs, of any kind. Specifically, plaintiff  
11 did not offer any evidence that anthroposophy has formal  
12 services, ceremonial functions, clergy, observed holidays, or any  
13 other formal and external signs associated with traditional  
14 religions. Alvarado, 94 F.3d at 1229 (citing Africa, 662 F.2d at  
15 1035-36)(recognizing that "a religion can often be recognized by  
16 the presence of certain formal and external signs" including  
17 "formal services, ceremonial functions, the existence of clergy,  
18 structure and organization, efforts at propagation, observance of  
19 holidays and other similar manifestations associated with the  
20 traditional religions").

21 Plaintiff's reliance on the organization and structure of  
22 the ASA and Staley's testimony regarding the "First Class" of the  
23 School of Spiritual Science to assert that anthroposophy has  
24 formal and external signs of religion is unavailing.<sup>14</sup> First,  
25

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26 <sup>14</sup> Plaintiff's opposition quotes numerous portions of the  
27 four admitted exhibits and Staley's testimony in an attempt to  
28 show that anthroposophy has formal and external signs of  
religion. (Pl.'s Opp'n, filed Oct. 5, 2010, at 17-26)(quoting  
portions of the Statutes of ASA, the ASA Bylaws and Articles of  
Incorporation, and Staley's testimony). However, plaintiff does

1 the Statutes of the ASA expressly state that the Society "rejects  
2 any kind of sectarian activity" and that anyone can become a  
3 member of the organization, without regard to religion. (Exhibit  
4 153 at 3). Moreover, Staley testified that the formal and  
5 external signs of traditional religions, such as ceremonial  
6 functions and observance of holidays, are not part of  
7 anthroposophy. (See R.T. at 40:5-10; 42: 17-21; 44:2-16.) She  
8 testified that there are no specific festivals or celebrations  
9 associated with anthroposophy. (R.T. at 42:17-21.) Instead,  
10 anthroposophists celebrate a variety of ceremonies and observe  
11 certain holidays *based on their own personal religious practices*,  
12 including for example, Easter and Christmas for those  
13 anthroposophists who are Christian, Ramadan for those  
14 anthroposophists who are Muslim or Yom Kippur for those  
15 anthroposophists who are Jewish. (R.T. at 43:1-25-44:19.)

16 Furthermore, plaintiff's blanket assertion that the "First  
17 Class" is a sacred religious ritual is not supported by the  
18 evidence. Staley's testimony regarding the "First Class"  
19 establishes, at most, that: (1) Christ was mentioned during  
20 classes; (2) there are no specific writings associated with the  
21 First Class; (3) Staley is a member of the Class; and (4) Staley  
22 was not aware of any specific training which was required to  
23 become a member of the First Class. (RT at 15:16-18, 15:24-25,  
24 16:14-18, 17: 21-25, 36:18-22, 36: 23-37, 17: 16-20)). Staley  
25 did not testify that the First Class was a ritual at all, let

26 \_\_\_\_\_  
27 not explain how these selections prove its case. (See id.)  
28 Plaintiff simply asserts that "a close look at the evidence shows  
that Anthroposophy is very organized with rigid standards."  
(Opp'n at 17.)

1 alone a *religious* ritual.

2 At best, the evidence proffered by plaintiff on this factor  
3 suggests that anthroposophy is connected to an organizational  
4 structure, through the ASA, which has certain membership  
5 requirements, meetings, and an identified purpose.<sup>15</sup> However,  
6 plaintiff simply did not establish how that national organization  
7 and its structure are indicative of a religion. Were the court  
8 to find an external sign of religion based simply on evidence  
9 that there is an organizational structure associated with  
10 anthroposophy, it would be extending the definition of religion  
11 to an unworkable extreme. Cf. Alvarado, 94 F.3d at 1230 (noting  
12 that the First Amendment must be held to protect the "unfamiliar  
13 and idiosyncratic as well as commonly recognized religions," but  
14 it loses its sense, and ability to protect, when carried to  
15 extremes).

16 Because plaintiff has not shown a connection between the  
17 structural characteristics of anthroposophy and traditional  
18 religions or presented evidence that anthroposophy has formal and  
19 external signs associated with traditional religions, the court  
20 finds that this factor also does not support a finding that  
21 anthroposophy is a religion.<sup>16</sup>

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22  
23 <sup>15</sup> However, the standards and organizational structure are  
24 not as rigid as plaintiff suggests. (See Opp'n at 17). For  
25 example, the ASA, which is part of a larger international  
26 organization, provides for the creation of local member groups  
and allows those groups the flexibility to determine their own  
eligibility requirements and statutes, so long as they do not  
conflict with the ASA's Statutes. (Exhibit 153 at 000004.)

27 <sup>16</sup> Plaintiff's contention that the court should make "an  
28 adverse inference" against defendant based on defendant's alleged  
"destruction of evidence" is wholly without merit. Plaintiff  
proffers no evidence whatsoever that defendant destroyed any

CONCLUSION

Based upon the trial conducted in this action on August 31, 2010, the parties' post-trial briefing on defendant's Rule 52(c) motion, and the above-stated findings of fact and conclusions of law, IT IS HEREBY ORDERED that defendant's motion for judgment on partial findings under Rule 52(c) is GRANTED.

IT IS ORDERED and ADJUDGED that plaintiff take nothing and that the action be dismissed on the merits. Judgment shall be entered in favor of defendant.

DATED: November 4, 2010



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FRANK C. DAMRELL, JR.  
UNITED STATES DISTRICT JUDGE

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evidence relevant to this case. While Exhibit C references an attachment (the Bylaws registered on March 3, 1925) which was not submitted with the exhibit, defendant maintains that it never had a copy of the attachment, and plaintiff offers no evidence to establish otherwise. Moreover, plaintiff has waived any objection to Exhibit C as it failed to make this argument during trial and instead stipulated to the admission of Exhibit C.